

September 9, 1999

Michael Foreman
Clerk of the Circuit Court
City of Winchester

City Council
City of Winchester

We have reviewed the internal controls of the Clerk of the Circuit Court of City of Winchester for the period July 1, 1997 through June 30, 1998.

Our primary objectives were to determine whether the Clerk has maintained sufficient internal controls, has adequate procedures for establishing, monitoring and reporting unpaid fines, costs and restitutions; and maintains records for Moneys Under the Control of the Court as prescribed in Section 8.01-600 of the Code of Virginia.

The results of our tests found the Court has sufficient internal controls, adequate procedures for handling unpaid fines, costs, and restitutions, and maintain appropriate trust fund records. However, we noted noncompliance with state laws, regulations, and policies that the Clerk needs to address as described below.

Collect Taxes and Fees on Wills and Administrations

As noted in the past several audits, the Clerk is not properly collecting fees and taxes on wills and administrations. The Clerk does not collect fees and taxes until the Commissioner of Accounts approves the final inventory. Section 58.1-1714 of the Code of Virginia requires the Clerk to collect all fees and taxes at the time of probate by estimating the estate's value at the time of probate. We found wills uncollected fees and taxes ranging from 4 months to 2 years after probate.

The Clerk has a statutory responsibility to collect taxes at the time of probate using the estimated value of the estate. We have brought this issue to the Clerk's attention for several years and he continues to refuse to change his procedures. If the Clerk does not immediately revise his procedures to collect fees and taxes at the time of probate, we recommend the Judge hold him personally liable for any loss of revenue to the Commonwealth.

We discussed these comments with the Clerk on September 9, 1999 and we acknowledge the cooperation extended to us during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK:aom

cc: The Honorable Porter Graves, Chief Judge
Bruce Haynes, Executive Secretary
Compensation Board
Martin Watts, Court Analyst
Supreme Court of Virginia
Paul Delosh, Technical Assistance
Supreme Court of Virginia